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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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84190 7590 05/04/2010 Qwest Communications International Inc. 1801 California St., #900 Denver, CO 80202				
EXAMINER				
LU'ONG, ALAN H				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/671,312

Applicant(s)

RAMBO, KENNETH

Examiner

ALAN LUONG

Art Unit

2427

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3, 4, 9, 10, 12-14, 17, 18, 21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 4, 9, 10, 12-14, 17, 18, 21 and 22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 15, 2010, has been entered.

Response to Arguments

Applicant's arguments, see Remark, pages 8-9, filed 2/22/2010, with respect to claims **1, 3, 4, 9, 10, 12-14, 17-18 and 21-22** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Bruck** et al, in view of **Cooper** et al. (US Patent No. 6,754,904); further in view of **Challey** et al. (US Pub. 2004/0128183 have been fully considered and are persuasive. The previous rejection with **Bruck** et al, and **Cooper** et al. in view of **Challey** et al. (US Pub. 2004/0128183 has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made being unpatentable over **Reto** et al. (US Patent No. 7603683); in view of **Kraft** et al. (US Pub. 2002/0188777 A1) and further in view of **Tang** et al. (US Patent No. 6731308) .

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims **1, 3, 4, 13-14** and **17-18** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Reto** (US Patent No. 7603683); further in view of **Kraft et al.** (US Pub. 2002/0188777 A1).

Regarding to claim 1: Fig. 1 of **Reto** illustrates a **communications network** (internet [6]) **having multiple users** (i.e. a plurality of client devices 1 Peter, 2 Reto, 3, 4) **using an instant messaging (IM) application** (i.e. using icons for Chat application in a chat group) (**col. 8 lines 53-59**); **wherein the users are viewing multiple television programs** (i.e. client device includes a receiver 12 receives television content in a signal broadcast from a broadcaster) (**Reto, col. 8 lines 23-col. 9 line 30**), **the network comprising:**

Fig. 1 of **Reto** illustrates a **display device [11] for each of the users** (i.e. a plurality of client devices 1 Peter, 2 Reto, 3, 4); (**Reto, col. 8 lines 24-25, line 65 to col. 9 line 3**),

Fig. 36 of **Reto** illustrates a **plural display windows** (i.e. 120, 121, 122, .. 127 and 128) **at the display device; the plural windows for simultaneously displaying multiple content, wherein a first display window [128] displays a broadcast television program** (i.e. television program) **and wherein a second display window [120] displays content from the instant messaging (IM) application** (i.e. Chat text); (**Reto, col. 22 lines 36-43**),

Fig. 1 of **Reto** illustrate an **IM server [5] in communication with the display device for managing IM content in the form of IM messages among the users** (i.e. a buddy

list [52] of Fig. 5 of each client device, patterns of how clients use icons, and a repository of icons), **the IM server operated by an IM service provider** (i.e. TV broadcaster [7]) **for receiving, displaying and sending IM messages among the plural users;** (communicating with the client devices to perform exchange of icons between the client devices). **Reto, col. 10 lines 9-21, 47-57)**

Reto also teaches the client device sends **the instant messaging content (i.e. a request to the server 5); including instant messages sent from the users** (i.e. includes the client device identification number of the client device that corresponds to the target plate 60, the client device identification number of the sender client device, the information identifying the present user, icon identification data, and present content data includes the television channel **(a program ID) associated with each of the sent instant messages**), (i.e. The icon identification data designates an invitation icon, and the present content data includes the television channel and the frame number of the television program presently being viewed at the sender client device **(Reto, col. 17 lines 11-39, col. 22 lines 52-55) and**

Figs. 26 of Reto illustrate an invitation **for aggregating instant messaging content including program IDs** (i.e. Soccer game) **from the users corresponding to the multiple television programs being viewed by the users** (watch the present television content, that is, a soccer match, with the sender of the invitation, in the TV sharing environment)., **(Reto, col. 17 lines 29-39) and so that** , Figs. 29, 30 show **IM content representing video programming activity** (i.e. Peter is watching a soccer match at the client device 1 with the icon choose interface displayed as shown in FIG.

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28) **by multiple users viewing television programs** (i.e. "my group" plate 52a is selected while "my group" includes members, then the choose icon interface with "my group" as the target buddy button 60 is displayed as shown in FIG. 28) **can be tracked on a real time basis at the server [5] in order to reflect moment-by-moment the level of instant messaging activity** (i.e. polling Foul message from sender Peter) **corresponding to multiple television programs being viewed by the multiple users"** (i.e. The server 5 collects responses from the recipient client device or devices for the 30 second waiting period, and then sends another command to all the client devices in "my group" with information on the results of the poll.), **(Reto, col. 18 lines 21-57; also read on Fig. 36-37, col. 22 line 35 to col. 23 line 29).**

Additionally, Fig. 23 of Reto illustrates the buddy profile screen includes a profile 90 and Fig. 36 of Reto illustrates **a chat screen** includes a chat text field 120, a names field 121, a text input field 122, a send button 123, a share button 124, a buddy list button 125, a find a chat button 126, and an exit room button 127; **wherein personal profile information for the users is entered at a profile screen on the display device and, (Reto, col. 16 lines 41-47, col. 18 line 63 to col. 19 line 7 and col. 22 lines 36-41);** if the target client accept invitation, his profile information **is stored at the IM server in conjunction with managing IM content (as my profile [115] of Fig.31) (col. 19 lines 28-31)**

However, Reto is unclear regarding to "a separate survey server in communication with the IM server for receiving and storing instant messaging content from each of the users, for generating reports on the tracked programming activity;

In an analogous art directed toward a similar problem namely improving the results from *a separate survey server in communication with the IM server* for receiving and storing instant messaging content from each of the users; for generating reports on the tracked programming activity. Same field of chat messages application, Fig. 1, 2 of Kraft illustrate **a separate survey server** (i.e. a Real-Time Survey Profile Matcher 50 associates with a Survey Database Manager 60) is the database storage component **in communication with the IM server** (i.e. LISA component [40]) **for receiving and storing instant messaging content from each of the users** (i.e. chat messages 42, 44, 46, and 48); including the survey query and the collected data from the **IM server** (i.e. LISA component). (Kraft, ¶¶0050-¶¶0055); in view of Kraft; Fig. 2 shows a Result and Presentation Manager [70] **for generating reports on the tracked programming activity** by a real-time survey profile matcher [50] (i.e. the survey results [80] where compiles a list of raw data which is output to the result and presentation manager [70] for conversion.) (Kraft, ¶¶0050-¶¶0051 and ¶¶0057-¶¶0059). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify an interactive chat application network of Reto including a Survey Database Manager and a real-time survey profile matcher as taught by Kraft in order to provide a system and method for initiating and conducting a passive surveys simultaneously having accurate, up-to-date survey results. (Kraft, ¶¶0014).

However, Reto is silent with respect to *wherein such personal profile information is provided from the IM server to the survey server, so that programming activity being tracked at the survey server can be associated with demographic information of the*

users collected from the personal profile information, without the demographic information having to be separately entered by users apart from the IM application and so that IM content representing programming activity to be reported is provided to the survey server by the IM server rather than being provided separately by the users.

In an analogous art directed toward a similar problem namely improving the results from *such personal profile information is provided from the IM server to the survey server, so that programming activity being tracked at the survey server can be associated with demographic information of the users collected from the personal profile information.*

Referring to Fig. 2; Kraft also teaches LISA framework 40 extracts any useful information from the gathered, real-time data including, for example, the chat message date, a chatter's name or e-mail address, the chatter's comments, phrases, keywords, body text, titles, headers, and the like (**demographic information**), which is then indexed or stored within the LISA framework for forwarding in real-time to the real-time survey profile matcher 50) ***such personal profile information is provided from the IM server (i.e. LISA framework 40) to the survey server (i.e. the Real-time Survey Profile Matcher 50) (Kraft, ¶0048)***

Reto, in view of Kraft teaches so that programming activity being tracked at the survey server (i.e. The real-time survey profile matcher 50) can be associated with demographic information (i.e. poll result from Reto reference) of the users collected from the personal profile information; (Kraft, ¶0050-¶0051); Further Kraft teaches "A

surveyor easily conducts a real-time survey on chat rooms by first filling out and submitting an electronic form. In accordance with the present invention, the electronic forms may include web-based forms including forms for a web browser, e-mail, cell phone, personal digital assistant, and the like, whereby each form contains a different survey query.*is not in conjunction with managing IM content (i.e. without the demographic information having to be separately entered by users apart from the IM application) (Kraft, ¶0044) (i.e. The user initiates the survey by entering the desired data in the web-based form which is processed in the form process engine 10 and then output to the real-time survey profile matcher 50) and so that IM content representing programming activity to be reported is provided to the survey server (i.e. the real-time survey profile matcher 50) by the IM server (i.e. LISA framework 40) rather than being provided separately by the users. (Kraft, ¶0059)*

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify personal profile information is stored in the IM server of Reto is provided to the survey server as taught by Kraft in order to provide a system and method for initiating and conducting a passive surveys simultaneously having accurate, up-to-date survey results. **(Kraft, ¶0014).**

Regarding to claim 3: The network of claim 1, Reto also discloses the video programming content is a broadcast television program and **the broadcast television program is provided over one of a plurality of selectable television channels, (col. 24 lines 31-37) and Fig. 36 is screen display 11 wherein the display device is a television screen. (col. 22 lines 36-44).**

Regarding to claim 4: the network of claim 1, Reto further discloses wherein the instant messaging content comprises:

a personal ID associated with a user of the IM application (i.e. The request includes chat room data that indicates the present chat room, the client device identification number of the sender client device, the information identifying the present user **(a personal ID)**, icon identification data, and present content data). **(Reto, col. 22 lines 48-52).**

Regarding to claim 13, 14: Reto and Kraft disclose the network of claim 1, Reto teaches **wherein the programming content is provided to the display device by a satellite and a cable television service.** **(Reto, col. 22 lines 17-19)**

Regarding to claim 17: the network of claim 1; Reto teaches **a set top box for each of the users** (TV receiver 12 of Fig. 1) **for receiving the broadcast television program** (Reto, col. 9 lines 1-3) **and the program ID identifying the television program;** (see above rejection of claim 1) **(Reto, col. 22 lines 52-55), wherein the IM application captures the program ID at the set top box so that the program ID identifying the broadcast television program being viewed by each user changes** (i.e. Peter is watching a Soccer game on TV window [128]) **when the television program being viewed by that user changes** (i.e. the server 5 receives responses from all the target client devices, then the server 5 advises about the changes to the client devices connected to the chat room. Example: the sender uses a share function is used to invite people who are currently not watching television, but who are online by some other device, such as by a personal computer connected to the Internet or a

mobile telephone. In response, the server 5 sends a text message to the user's online device. The text message explains the invitation, for example, "Peter just invited you to watch the soccer match with him. Go and switch on your TV!"); (**Reto, col. 23 lines 15-29**).

Regarding to claim 18: the network of claim 1; Fig. 36 of Reto illustrates **a set up screen used by each of the users to set up an instant messaging session** and when viewer activates the share button, he sends the request **wherein the program ID (is including in the request) is entered by the user at the set up screen. (col. 22 lines 36-64)**

3. Claims **9, 21 and 22** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Reto and Kraft et al.**; in view of US Pat No. **6,731,308** by **Tang et al.**

Regarding to claim 9: Reto and Kraft teach the network of claim 1, but are silent with respect to *a selectable telephone communications display element, wherein a telephone communications line is established over the communications network between the user at the display device and the remote user, when the telephone communications display element is selected*

In an analogous art directed toward a similar problem namely improving the results from a selectable telephone communications display element. Same field of IM application, Fig. 5A of Tang illustrates **a selectable telephone communications display element** (i.e. telephone icon 62d)(i.e. John and Janak to obtain information regarding the availability of the other party to participate in a communication session, such as an instant messaging session. The telephone icon 62a indicates that John has

two voice mail messages from Janak to which he has not listened., John can initiate establishing a telephone link with Janak by simply clicking once on the icon 62d, or initiate establishing an instant messaging link by clicking once on the icon 62e...), so that upon selection of the display element a telephone communications line is established over the communications network between plural users of the IM application (i.e. a communication interface can provide an instant messaging link, a telephone link, or an e-mail link between the initiator and the intended recipient). (**Tang, Col. 4, line 14-16 and Col. 9, line 23-62**).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify a communications network having multiple users using chat application of **Reto and Kraft** to include a telephone communication display element as taught by Tang; in order to provide specialized peripherals, such as sensors and computer-controlled objects, to be interfaced with each user's computer. (**Tang, Col. 3, line 20-22**).

Regarding to claim 21: Reto, Kraft and Tang teach all limitation of the network of claim 9, Reto, Kraft teach wherein the programming activity tracked at the survey server, the survey server for generating reports on the tracked programming activity that include data from the aggregated IM content. Additionally, in view of Tang teaches activity relating to the selection of the telephone communications display element so that telephone activity between users (*as disclosed in claim 9*; (Tang, Col. 9, line 23-62). Therefore, combination of Reto, Kraft ; in view of Tang meets the limitation of claim 21.

Regarding to claim 22: Reto, Kraft and Tang teach all limitation the network of claim 9, Kraft further teaches “In analyzing the real-time data, the LISA framework 40 (**IM server**) extracts any useful information from the gathered, real-time data including, for example, the chat message date, a chatter’s name or e-mail address, the chatter’s comments (**demographic information**), phrases, **keywords**, body text, titles, headers, and the like. The extracted information is then indexed or stored within the LISA framework for forwarding in real-time to the real-time survey profile matcher 50 (**are tracked at the survey server**), along with the survey submissions of the form process engine 10, for the step of matching chat session messages to survey submissions”; (**Kraft, ¶0048, ¶0059**) meets the scope of claim “**wherein keywords in IM messages are tracked at the survey server, so that combining with Reto, in view of Kraft teaches “the occurrence of the keywords is included in the tracked programming activity” (Kraft, ¶0050-¶0053);**

4. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Reto, Kraft et al. and Tang et al.**; in view of US Pat No. **6,757,365 to Bogard**

Regarding to claim 10: Reto, Kraft et al. and Tang et al. teach the network of claim 9, Tang also teaches **communication interface can provide IM link, a telephone link; (Tang, Col. 4, line 14-16)**. However, neither Reto nor Kraft nor Tang discloses where the telephone communications line is connected at a telephone device separate from the display system, and such telephone communications line uses the public switched telephone network (PSTN).

In an analogous art directed toward a similar problem namely improving the results from a telephone device separate from the display system, and such telephone communications line uses the public switched telephone network (PSTN). Bogard; same field of IM application, in Fig. 3 depicts a **telephone device [300]** is connected in **the telephone communications line** to the telephone network [304], **separate from the display system [302]** such **telephone communications line uses the public switched telephone network (PSTN)**; (Bogard, col. 5 lines 9-44) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify a telephone link is used in IM communication of Reto, Kraft and Tang including a **telephone device [300]** is connected in **the public switched telephone network (PSTN)** as taught by Bogard; in order to modernize the communication link between STB and the Internet Provider.

5. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Reto**, and **Kraft et al.**; in view of US Pat No. **6,757,365** to **Bogard**

Regarding to claim 12: Reto and Kraft teach the network of claim 1, Reto teaches a network interface [13] in Fig. 1; wherein a user at the display device can use an **internet access service** (i.e. communicate on Internet or mobile telephone); (**Reto, Col. 23, line 46-48**). However, neither Reto nor Kraft discloses a VDSL service provides telephone to the subscriber over the communications network

In an analogous art directed toward a similar problem namely improving the results from user's Internet service provider includes a **VDSL service**. Bogard teaches a DSL service, a cable modem etc... provide a telephone, video programming and

internet access service to the subscriber over the communications network (**Bogard, col.5 lines 55-67**). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify a network interface is used in IM communication of Reto and Kraft including the DSL service on a telephone communication network as taught by Bogard; in order to modernize the communication link between STB and the Internet Provider.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALAN LUONG whose telephone number is (571)270-5091. The examiner can normally be reached on Mon.-Thurs., 8:00am-5pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Beliveau can be reached on (571) 272-7343. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/ALAN LUONG/

Examiner, Art Unit 2427

/Scott Beliveau/

Supervisory Patent Examiner, Art Unit 2427